

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. M. P. No. 1258 of 2026

Mahesh Karmkar, aged about 45 years, s/o Badri Karmakar, resident
of 127 A.F.G., Dharamabandh Basti, PO & PS – Madhuban, District-
Dhanbad, Jharkhand. **... ..Petitioner**

Versus

The State of Jharkhand. **... ..Opp. Party**

For the Petitioner : Mr. Abhijeet Kumar Singh, Advocate
For the State : Mr. Vineet Kr. Vashistha, Spl. P.P.

PRESENT

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 528 of BNSS, 2023 with the prayer for quashing and setting aside the entire criminal proceeding including the First Information Report in connection with Madhuban P.S. case no. 03 of 2025, corresponding to G.R. No. 845 of 2025 (S.T. Case No. 222 of 2025) including the order taking cognizance dated 02.04.2025 passed by the learned Judicial Magistrate – 1st Class, Dhanbad, whereby and whereunder the learned Judicial Magistrate – 1st Class, Dhanbad, has taken cognizance against the petitioner of the offences punishable under Sections 191(2), 191(3), 190, 324(5), 326(g) of the B.N.S. along with Section 3 / 4 Prevention of Damage to Public Property Act, 1984, pending in the court of learned Additional District Judge - IV, Dhanbad on the ground

that this is the second FIR in respect of same occurrence for which, earlier Madhuban (Dharmabandh O.P.) P.S. case no. 01 of 2025 and Madhuban P.S. case no. 02 of 2025 have already been registered.

3. The brief fact of his case is that this case, Madhuban P.S. case no. 03 of 2025 has been registered, basing upon the written report submitted by the Circle Inspector of Mahuda Circle office, alleging therein that on 09.01.2025 at about 10.30 AM, there was a fight between two groups, one led by Karu Yadav and the other by Sheikh Guddu, to have dominance over the Babudih colliery. There were arson, firing, assaults and counter assaults between the members of the two groups. On getting the information, the informant reached the place of occurrence, along with the police force at about 11.00 AM and saw the occurrence. The fire was extinguished by the fire engines and information was received that the supporters of Karu Yadav have torched the AJSU party office. The informant also saw the same. The persons present at the place alleged that it is the supporters of Karu Yadav who have committed the said occurrence. Madhuban (Dharmabandh O.P.) P.S. case no. 01 of 2025 has been instituted upon written report submitted by the Sub Inspector of Police – cum- In-charge Dharmabandh O.P. alleging that on 09.01.2025, at 10.00 AM, the outsourcing company of BCCL namely M/s Hilltop company for excavation of coal started the work of demarcation of the land. The outsourcing Hilltop company has sublet the work to Karu Yadav. The local residents were opposing Karu Yadav for their own

reasons. The group of Karu Yadav was opposed by the group of Sheikh Tohid @ Dablu. Subhash Singh is a AJSU supporter and with the help of Subhash Singh and the villagers, the Hon'ble Member of Parliament from Giridih, held meetings at the Babudih office in BCCL area. At about 11.00 AM, about 100 persons of Karu Yadav, 61 of whom, have been named in FIR along with others, on motorcycle and other vehicles, armed with deadly weapons, reached Babudih place of work. From the other side, Sk. Tohid along with about 100 persons, 61 of whom have been named, also came on motorcycles and other vehicles, armed with deadly weapons and opposed the work. The informant along with armed forces and other officers reached the place of occurrence. The informant tried to pacify the parties but both the parties did not oblige the informant and started to abuse each other, consequent upon exchange of abuse, there was assault, counter assault, firing and blasting of bombs. Several vehicles were damaged and torched. Subhash Singh sustained bullet injury on his leg. More force reached at the place of occurrence after getting the information and after arrival of sufficient number of forces; the miscreants and accused persons, fled away and they were chased away by the police personnel. Madhuban P.S. case no. 02 of 2025 has been instituted on the basis of the written report submitted by the Sub-Inspector-cum-Officer-in-Charge of Madhuban police station. He has also stated that on 09.01.2025 at 11.00 AM, there was fight for dominance over Babudih colliery between two groups, there were assault and

counter assault, firing and arson. The members of Karu Yadav group torched the office of AJSU and vandalized the same. The members of Karu Yadav group assembled in support of Karu Yadav. After getting information, Police force reached there and tried to arrest the members who were present there. Police surrounded Karu Yadav and his son Binod Yadav. They used criminal force against the police personnel and deterred them from discharging their duty. The wife of Karu Yadav and other persons made a murderous assault upon the police team in an organized manner and forcibly took away Karu Yadav and his son from the custody of police. In the stone pelting that took place, the Sub-Divisional Police Officer, Baghmara, sustained 2-3 stone injuries on his head and became injured and fell down on the ground and taking advantage of the police party paying their attention to the injured Sub-divisional police officer, the miscreants including Karu Yadav and his son, fled away from the place of occurrence.

4. It is submitted by learned counsel for the petitioner that the occurrence in respect of which Madhuban P.S. case no. 01 of 2025 was registered, took place during the same course of transaction, in which the occurrence of this case also took place. It is next submitted that thus, the institution of Madhuban P.S. case no. 03 of 2025 is an attempt for a fresh investigation based on second or successive FIR, not being a counter case, which is prohibited in law. It is next submitted that FIR of Madhuban P.S.

case no. 03 of 2025 is hit by the provisions of Section 181 of the BNSS, 2023.

5. Relying upon the judgment of this Court in the case of *Manish Varma and Another vs. The State of Jharkhand & Another* dated 06.05.2024, it is submitted by learned counsel for the petitioner that in that case, this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of *T.T. Antony v. State of Kerala & Others* reported in (2001) 6 SCC 181, paragraph 27 of which reads as under:-

27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that subsection (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution." (Emphasis supplied)

wherein the Hon'ble Supreme Court of India has held that fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC and submits that in this case also, the FIR of Madhuban P.S. case no. 03 of 2025 having been filed in connection with the same and connected cognizable offences, be quashed and set aside.

6. It is next submitted that this Court in that case, also relied upon the judgment of the Hon'ble Supreme Court of India in the case of *Amitbhai Anil Chandra Shah v. Central Bureau of Investigation & Another* reported in (2013) 6 SCC 348, para 58.3 of which reads as under :-

"58.3. Even after filing of such a report, if he comes into possession of further information or material, there is no need to register a fresh FIR, he is empowered to make further investigation normally with the leave of the court and where during further investigation, he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports which is evident from subsection (8) of Section 173 of the Code. Under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of the Code, only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 of the Code. Thus, there can be no second FIR and, consequently, there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences." (Emphasis supplied)

7. It is then submitted that in that case, this Court further relied upon the judgment of the Hon'ble Supreme Court of India in the case of *Upkar Singh v. Ved Prakash and Others* reported in (2004) 13 SCC 292 paragraph-17 of which reads as under:-

"17. It is clear from the words emphasised hereinabove in the above quotation, this Court in the case of T.T. Antony v. State of Kerala [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048] has not excluded the registration of a complaint in the nature of a counter-case from the purview of the Code. In our opinion, this Court in that case only held that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under the Code because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence will be prohibited under Section 162 of the Code. This prohibition noticed by this Court, in our opinion, does not apply to counter-complaint by the accused in the first complaint or on his behalf alleging a different version of the said incident." (Emphasis supplied)

8. It is next submitted that in that case, this Court also relied upon the judgment of the Hon'ble Supreme Court of India in the case of *Tarak Dash Mukharjee & Others vs. State of Uttar Pradesh and Others* reported in 2022 SCC OnLine SC 2121.

9. Learned counsel for the petitioner next relies upon the judgment of this Court in the case of *Ranjeet Kumar Rawani @ Ranjit Rawani & Another vs. State of Jharkhand* passed in Cr.M.P. no. 2367 of 2023 wherein this Court took note of *Krishna Lal Chawla & Ors. vs. State of Uttar Pradesh & Anr.* reported in (2021) 5 SCC 435, wherein the Hon'ble

Supreme Court of India has reiterated the settled principle of law that the second FIR in respect of an offence or different offences committed in the course of the same transaction, is not only impermissible but it violates Article 21 of the Constitution of India, hence, it is submitted that the prayer as prayed for in the instant Criminal Miscellaneous Petition, be allowed.

10. Learned Addl. P.P appearing for the State fairly submits that the occurrence for which, Madhuban P.S. case no. 03 of 2025 has been registered, also finds place either in the FIR of Madhuban P.S. case no. 01 of 2025 or Madhuban P.S. case no. 02 of 2025 and no new fact has been alleged in the present case, though the informant is a different person, but it is submitted that at this nascent stage, the prayer as prayed for by the petitioner ought not be allowed and this Criminal Miscellaneous Petition being without any merit, be dismissed.

11. Having heard the rival submissions made at the Bar and after going through materials available in the record, it is pertinent to mention here that the Hon'ble Supreme Court of India has laid down the consequence test in its judgment in the case of *C. Muniappan & Others v. State of Tamil Nadu* reported in (2010) 9 SCC 567 according to which, if an offence forming part of the second F.I.R. arises as a consequence of the offence alleged in the first F.I.R. and then the offences covered by both the F.I.Rs are the same and accordingly the second F.I.R. will be

impermissible in law or in other words, the offence covered in both the F.I.Rs shall have to be treated as part of the first F.I.R.

12. It is a settled principle of law, as has been held by the Hon'ble Supreme Court of India in para 27 of the case of *T.T. Antony v. State of Kerala & Others (supra)* that a second F.I.R. is maintainable for a counter-case only. Now coming to the facts of the case, as already discussed above, no new fact of occurrence or offence has been alleged in FIR of Madhuban P.S. case no. 03 of 2025; which has not been mentioned either in the FIR of Madhuban P.S. case no. 01 of 2025 or in the FIR of Madhuban P.S. case no. 02 of 2025. Thus, this Court is of the considered view that FIR of Madhuban P.S. case no. 03 of 2025 is a subsequent FIR in respect of the selfsame occurrence, for which earlier, Madhuban P.S. case no. 01 of 2025 or Madhuban P.S. case no. 02 of 2025 has been registered. Accordingly, the same is not sustainable in law, being hit by the provisions of Section 181 of BNSS, 2023. Therefore, this is a fit case where the entire criminal proceeding including the First Information Report in connection with Madhuban P.S. case no. 03 of 2025, corresponding to G.R. No. 845 of 2025 (S.T. Case No. 222 of 2025) including the order taking cognizance dated 02.04.2025, be quashed and set aside against the petitioners.

13. Accordingly, the entire criminal proceeding including the First Information Report in connection with Madhuban P.S. case no. 03 of 2025, corresponding to G.R. No. 845 of 2025 (S.T. Case No. 222 of 2025)

including the order taking cognizance dated 02.04.2025, is quashed and set aside against the petitioners.

14. In the result, this Criminal Miscellaneous Petition is *allowed*.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 01st May, 2026
AFR/ Aditi
Uploaded On -11/05/2026